

District Judge Thomas S. Zilly

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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAN 17 2017
AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES OF AMERICA, *ex rel.*

TJ Gallo,

CASE NO. C14-1109-TSZ

Plaintiff,

FILED UNDER SEAL

v.

Noted for Consideration:
January 17, 2017

RPM Mortgage, Inc.,

Defendant.

**UNITED STATES' NOTICE OF ELECTION
TO DECLINE INTERVENTION**

Pursuant to the False Claims Act, as amended, 31 U.S.C. § 3730(b)(4)(B), the United States of America hereby notifies the Court of its decision not to intervene in this action at this time.

Although the United States declines to intervene, the government respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows Relator to maintain the action in the name of the United States, providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* Notwithstanding this statutory language, the Ninth Circuit has concluded that the United States has the right only to a hearing when it objects to a settlement or

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1 dismissal of the action. *See United States ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959
 2 (9th Cir. 1995); *United States ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 723-25
 3 (9th Cir. 1994). Accordingly, the United States requests that should either Relator or
 4 Defendant propose that this action be dismissed, settled, or otherwise discontinued, this
 5 Court provide the United States with notice and an opportunity to be heard before ruling or
 6 granting its approval.

7 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all
 8 pleadings filed in this action be served upon the United States and that orders issued by the
 9 Court be sent to the government's counsel. The United States reserves its right to order any
 10 deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek
 11 dismissal of Relator's action or claim under 31 U.S.C. § 3730(e)(4). The United States also
 12 requests that it be served with all Notices of Appeal.

13 A proposed Order accompanies this notice.
 14

15 Dated this 17th day of January, 2017.

16 Respectfully submitted,
 17

18 ANNETTE L HAYES
 19 United States Attorney

20 s/ Kayla Stahman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

That on the below date he filed the foregoing document with the Clerk of the Court and mailed a copy of the document to counsel for Relator, via United States Postal Service, addressed as follows:

Robert S Mahler
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Dated this 17th day of December, 2017.

s/ Thomas Everett
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